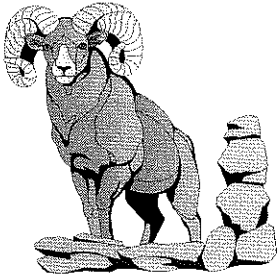


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JUN 14 2004



**TYLER T. FELTON**

DEPARTMENT OF  
WATER RESOURCES

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EMAIL: tyler@lfpc.com

June 10, 2004

Mr. Karl Dreher  
Idaho Department of Water Resources  
1301 North Orchard Street  
Boise, ID 83706

RE: Proposed Mitigation in WB34

Dear Mr. Dreher :

I was delighted the letter I recently received from your department which proposes mitigation for the Lost River Basin. You have obviously, and finally, acknowledged that Senior water rights are being damaged by Junior water rights. This is a contention I have had for years.

You see my mother and I have a variety of water rights which have been "dry" for a number of years, well levels are dropping and, in fact, I have a well that is bone dry this year. I have water rights on Spring Creek dated 1898 that have been dry for years. I am sure that the blame will be cast upon the current drought conditions; however, it is my strong belief is that the drought has merely magnified the problem and the real issue lays elsewhere.

These problems started when the immense amount of land in the southern part of the valley came under irrigation in the 70's when massive wells were drilled in the mid-valley and that water was (and is) transported outside of the historically irrigated lands. We own approximately 500 acres bordering Spring Creek. Through the mid 70's (and obviously, in 1898 when we received the water rights), we had subirrigated pastures, the creek and a pond. This property could support a significant number of cattle and its recreation value was substantial. The purchase price of this property reflected these attributes. Now it is dry, capable of supporting only a few head and its recreational value is nil. Basically, a great deal of wealth was transferred from our family to sagebrush desert with absolutely no compensation. IDWR was a significant participant in this travesty by issuing permits and allowing the water system to become greatly over taxed. Now it seems you want me to pay more.

Mr. Karl Dreher  
Idaho Department of Water Resources  
June 10, 2004

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By way of example, a quick search on one individual, Charles Isom, revealed a cumulative diversion rate of 48.10 on permits/permits/decrees issued subsequent to any of ours. As you can see, we have subject to mitigation and supporting junior water rights for over 30 years. I have absolutely no interest in further subsidizing any Junior water rights. In fact, I it is my strong belief that I should be a beneficiary of any mitigation and not a payer. Idaho Code Section 42-106 reads "...*the first in time is first in right*". Seems pretty clear to me – they don't get any of their water until we get all of our water. Start shutting "Junior" down.

Sincerely,



Tyler T. Felton  
34-250D – 6/15/1897 BLR  
34-4014 – 12/17/1944 not adjudicated GW



Mary Lou Felton  
34-542 - 10/31/1898 Spring Creek  
34-2328B – 04/29/1955 GW  
34-2448 – 2/21/1963 not adjudicated GW  
34-10415 – 6/1/1896 BLR  
34-10418 – 6/1/1902 GW  
34-10419 – 6/1/1902 GW

c: Idaho Department of Water Resources  
Eastern Regional Office  
900 North Skyline Drive, Suite A  
Idaho Falls, ID 83402-6105